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SERVICE DATE – MAY 24, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 627X)

CSX TRANSPORTATION, INC.–ABANDONMENT EXEMPTION–
IN FLOYD COUNTY, KY

Decided: May 23, 2006

CSX Transportation, Inc. (CSXT), filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon an approximately 13.4-mile line of railroad between milepost CON 3.1 at Salisbury and milepost CON 16.5 near Clear Creek Junction, in Floyd County, KY. Notice of the exemption was served and published in the Federal Register on February 11, 2003 (68 FR 6984-85).

By decision served on March 12, 2003 (March 2003 decision), the proceeding was reopened at the request of the Board's Section of Environmental Analysis (SEA), and the exemption was made subject to the conditions that CSXT shall: (1) provide the National Geodetic Survey (NGS) with at least 90 days' notice prior to initiation of any salvage operations that may disturb or destroy any of the geodetic station markers so that plans can be made for their relocation; (2) contact the Floyd County Floodplain Office prior to commencement of any salvage activities concerning possible impacts of abandonment in the 100-year flood plain and appropriate permit coverage; and (3) retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA).

By letter filed on April 4, 2006, the Kentucky Heritage Council and State Historic Preservation Office (SHPO) informed the Board that CSXT intends to lease the line to a coal company that is exploring mining operations that would require use of the line, and that, once the parties have reached a lease agreement, CSXT will terminate trail use negotiations, notify the Board that the abandonment has been consummated, and reclassify the line as a spur track. The SHPO also states that CSXT will leave the track, bridges, and tunnel in place for the coal company's use, and, accordingly, the historic integrity of all sites and structures on the right-of-way would be preserved and not altered. SEA concurs with the SHPO that CSXT's lease of the line for continued rail use will have no effect on historic properties. However, SEA recommends a change in the section 106 condition imposed in the March 2003 decision to reflect the possibility that CSXT might be unable to lease the line for continued rail use and, accordingly, decide to salvage the line. To reflect that possibility, SEA recommends that CSXT reinstate the

section 106 process of NHPA, and retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are eligible for listing or are listed in the National Register of Historic Places until completion of the section 106 process.¹

Accordingly, the proceeding will be reopened and the previously imposed historic preservation condition will be replaced with the one currently recommended by SEA.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the section 106 historic preservation condition imposed in the March 2003 decision is replaced with the following condition: In the event that CSXT is unable to lease the line for continued rail use and decides to salvage the line, prior to salvaging the line, CSXT shall reinitiate the section 106 process and shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are eligible for listing or listed on the National Register of Historic Places until completion of the section 106 process of the NHPA.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary

¹ The NGS and Floyd County Floodplain Office conditions imposed in the March 2003 decision remain in effect.